

**Remarks/Arguments**

Claims 1-18 and 40-44 are now pending in this application. In the August 25, 2008 Office Action (hereinafter, the "Action"), claims 1, 7, 14, 22-24, and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent No. 6,990,577 to Autry in view of U.S. Patent No. 6,581,157 to Chiles et al. (hereinafter "*Chiles*"). Claims 2-6, 15, 16, 24, 25, and 27-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Chiles*, further in view of U.S. Patent No. 6,665,813 to Forsman et al. (hereinafter "*Forsman*"). Claims 8-13, 17-21, 26, and 31-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Chiles*, in view of *Forsman* and Further in view of U.S. Patent No. 7,017,040 to Singer et al. (hereinafter "*Singer*"). Claims 38 and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0110472 to Alloing et al (hereinafter "*Alloing*"). Claim 40 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Alloing*, further in view of *Singer*.

Although the applicants added new claims 42-44 in the previous response, the currently pending Action did not appear to apply art to these new claims. Accordingly, the applicants carry forward these new claims unchanged.

In this amendment, Claims 38, and 40-41 are cancelled and no new claims have been added. Claims 1-5, 7-10, 12, 14-18, 22, 24-28, 30-33, and 35 have also been amended. Following entry of this amendment, claims 1-37 and 42-44 will be pending in the present application. For the reasons set forth below, the applicants respectfully request reconsideration and immediate allowance of this application.

**Claim Rejections under 35 U.S.C. 103(a)**

***Autry* in view of *Chiles***

In the Action, claims 1, 7, 14, 22-24, and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Chiles*. The applicants respectfully traverse these rejections for the following reasons, and request reconsideration and withdrawal of these rejections.

Turning first to **independent claim 1**, solely to advance prosecution of this matter, and without conceding the propriety of the stated rejections, the applicants have revised this claim to clarify certain subject matter described in the specification. For ease of reference, the applicants reproduce claim 1 here, with revisions shown in redline:

“1. (Currently Amended) A method of updating non-essential program code contained within a region in a non-volatile memory device in a computer system, the method comprising:  
building an image file, the image file comprising a region for storing essential program code that is required for booting the computer system and at least a further region for storing non-essential program code that is optional and not required for booting the computer system, wherein the non-essential program code is not linked to any of the essential program code;  
copying the image file to the non-volatile memory device in the computer system; and  
following copying the image file to the non-volatile memory device in the computer system, updating only the further region of the image file as stored in the non-volatile memory device to update the non-essential program code for the computer system, and not updating the region of the image file as stored in the non-volatile memory device.”

The applicants submit that the above revisions are fully supported by the specification as originally filed.

Turning now to *Autry*, as discussed in the previous response, *Autry* pertains generally to updating a BIOS image by replacing a portion of the BIOS image with a portion of another BIOS image. Without conceding that *Autry* provides the teaching for which it is cited in the Action, the applicants agree with the assessment on Page 3 of the Action, namely, that *Autry* fails to specifically disclose updating only the non-essential region stored in the non-volatile memory device to update program code or the computer system and not updating the essential region stored in the non-volatile memory device. The Action thus cited *Chiles* to provide the teaching missing from *Autry*.

Turning to *Chiles* in more detail, this reference pertains generally to a system and method for detecting and updating non-volatile memory on an electronic adapter board installed in a computer system. However, the applicants submit that *Chiles* fails to provide the teaching missing from *Autry* to support a § 103 rejection of independent claim 1. For ease of reference,

the applicants reproduce here the paragraphs of *Chiles* cited by the Action against the above portions of claim 1 (in particular, lines 21-24):

1  
**SYSTEM AND METHOD FOR DETECTING  
AND UPDATING NON-VOLATILE MEMORY  
ON AN ELECTRONIC ADAPTER BOARD  
INSTALLED IN A COMPUTING SYSTEM**

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**BACKGROUND OF THE INVENTION**

**A. Field of the Invention**

The present invention relates to the field of computers 10  
and, more particularly, to the field of systems and methods  
for configuring and updating electronic adapter boards.  
Electronic adapter boards are devices that operate in con-  
junction with device drivers to enhance the functional capa-  
bility of a computer. Electronic adapter boards include 15  
no-nvolatile memory components that store digital informa-  
tion identifying the boards according to device versions.  
Different device versions may include different features and  
functions. During operation, the device drivers function with  
specific device versions of the electronic adapter board. 20

As described in detail below, the digital information in the  
non-volatile memory is updated in a device upgrade to  
conform to the specific device version used by the device  
driver. For example, the present invention provides auto-  
matic and user-controlled device upgrade capability preclud- 25  
ing the need to replace the electronic adapter board when  
new device versions become available.

This portion of *Chiles* appears to reference digital information stored on a non-volatile memory within adapter boards. However, *Chiles* does not appear to differentiate between "essential" program code and "non-essential" program code when updating this "digital information". On at least this basis, the applicants submit that *Chiles* does not teach or suggest what is missing from *Autry* to support a § 103 rejection of claim 1. more specifically, *Chiles* does not teach or suggest "updating only the further region of the image file as stored in the non-volatile memory device to update the non-essential program code for the computer system, and not updating the region of the image file as stored in the non-volatile memory device", as recited in claim 1. In addition, the applicants submit that *Autry* and *Chiles* do not teach or suggest "... wherein the non-essential program code is not linked to any of the essential program code", as also recited in the above revisions to claim 1.

Based at least on the foregoing comments and revisions, the applicants submit that *Autry* and *Chiles* do not support a § 103 rejection of claim 1, whether considered separately or in

combination. On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of independent claim 1.

Turning now to **dependent claim 7**, this claim depends from claim 1, and stands rejected on similar grounds. Therefore, the revisions and comments directed above to claim 1 apply equally to claim 7. On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claim 7.

Turning now to **independent claim 14**, the applicants have revised this claim similarly to the revisions to claim 1 that were discussed above. Therefore, the comments directed above to claim 1 apply equally to claim 14. On at least this basis, the applicants submit that *Autry* and *Chiles* do not support a § 103 rejection of claim 14, whether considered separately or in combination. The applicants thus request reconsideration and withdrawal of the § 103 rejection of independent claim 14.

Turning now to **dependent claims 22-23**, these claims depend from claim 14, and stand rejected on similar grounds. Therefore, the revisions and comments directed above to claim 14 apply equally to claims 22-23. On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claims 22-23.

Turning now to **independent claim 24**, the applicants have revised this claim similarly to the revisions to claim 1 that were discussed above. Therefore, the comments directed above to claim 1 apply equally to claim 24. On at least this basis, the applicants submit that *Autry* and *Chiles* do not support a § 103 rejection of claim 24, whether considered separately or in combination. The applicants thus request reconsideration and withdrawal of the § 103 rejection of independent claim 24.

Turning now to **dependent claim 30**, this claim depends from claim 24, and stands rejected on similar grounds. Therefore, the revisions and comments directed above to claim 24 apply equally to claim 30. On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claim 30.

*Autry in view of Chiles, further in view of Forsman*

As stated on Page 6 of the Action, claims 2-6, 15, 16, 24, 25, and 27-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry in view of Chiles, further in view of Forsman*. The applicants respectfully traverse these rejections for the following reasons, and request reconsideration and withdrawal of these rejections.

Turning first to **dependent claims 2-6**, these claims depend from independent claim 1, which was discussed above. Therefore, the revisions and comments directed above to claim 1 apply equally to claims 2-6.

In addition, without conceding that *Autry* and *Chiles* provide the teaching for which they are cited in the Action, the applicants agree with the assessment on Page 7 that *Autry* and *Chiles* “fail to teach the method wherein the non-essential region in the image file comprises one or more non-essential blocks”. Therefore, the Action cited *Forsman* to provide the teaching missing from *Autry* and *Chiles*. *Forsman* pertains generally to a method and apparatus for updatable flash memory design and recovery with minimal redundancy. Without conceding that *Forsman* provides the teaching for which it is cited, the applicants submit that *Forsman* does not provide the teaching that is missing from *Autry* and *Chiles* that is necessary to support a § 103 rejection of independent claim 1. On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claims 2-6.

Turning now to **dependent claims 15-16**, these claims depend from independent claim 14, which was discussed above. Therefore, the revisions and comments directed above to claim 14 apply equally to claims 15-16.

In addition, without conceding that *Autry* and *Chiles* provide the teaching for which they are cited in the Action, the applicants agree with the assessment on Page 8 that *Autry* and *Chiles* “fail to teach the computer system wherein the non-essential region in the image file comprises at least one or more non-essential blocks”. Therefore, the Action cited *Forsman* to provide the teaching missing from *Autry* and *Chiles*. As discussed above, *Forsman* pertains generally to a method and apparatus for updatable flash memory design and recovery with minimal redundancy. Without conceding that *Forsman* provides the teaching for which it is cited, the applicants submit that *Forsman* does not provide the teaching that is missing from *Autry* and *Chiles* that is necessary to support a § 103 rejection of independent claim 14. On at least this

basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claims 15-16.

Turning now to **dependent claims 25 and 27-29**, these claims depend from independent claim 24, which was discussed above. Therefore, the revisions and comments directed above to claim 24 apply equally to claims 25 and 27-29.

In addition, without conceding that *Autry* and *Chiles* provide the teaching for which they are cited in the Action, the applicants agree with the assessment on Pages 8-9 that *Autry* and *Chiles* “fail to teach the computer-readable storage medium wherein the non-essential region in the image file comprises at least one or more non-essential blocks”. Therefore, The Action cited *Forsman* to provide the teaching missing from *Autry* and *Chiles*. Without conceding that *Forsman* provides the teaching for which it is cited, the applicants submit that *Forsman* does not provide the teaching that is missing from *Autry* and *Chiles* that is necessary to support a § 103 rejection of independent claim 24 . On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claims 25 and 27-29.

*Autry in view of Chiles in view of Forsman further in view of Singer*

As stated on Page 10 of the Action, claims 8-13, 17-21, 26, and 31-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Chiles*, in view of *Forsman*, further in view of *Singer*. The applicants respectfully traverse these rejections for the following reasons, and request reconsideration and withdrawal of these rejections.

Turning first to **dependent claims 8-13**, these claims depend from independent claim 1, which was discussed above. Therefore, the revisions and comments directed above to claim 1 apply equally to claims 8-13.

In addition, without conceding that *Autry*, *Chiles*, and *Forsman* provide the teaching for which they are cited in the Action, the applicants agree with the assessment on Page 10 that *Autry*, *Chiles*, and *Forsman* “fail to teach or disclose the method wherein the one or more non-essential blocks comprise a header”. Therefore, the Action cited *Singer* to provide the teaching missing from *Autry*, *Chiles*, and *Forsman*. *Singer* pertains generally to a BIOS update file. Without conceding that *Singer* provides the teaching for which it is cited, the applicants submit that *Singer* does not provide the teaching that is missing from *Autry*, *Chiles*, and *Forsman* that is necessary to support a § 103 rejection of independent claim 1. On at least this basis, the

applicants request reconsideration and withdrawal of the § 103 rejection of dependent claims 8-13.

Turning now to **dependent claims 17-21**, these claims depend from independent claim 14, which was discussed above. Therefore, the revisions and comments directed above to claim 14 apply equally to claims 17-21.

In addition, without conceding that *Autry*, *Chiles*, and *Forsman* provide the teaching for which they are cited in the Action, the applicants agree with the assessment on Page 11 that *Autry*, *Chiles*, and *Forsman* “fail to teach or disclose the computer system wherein the at least one non-essential block comprising a header”. Therefore, the Action cited *Singer* to provide the teaching missing from *Autry*, *Chiles*, and *Forsman*. Without conceding that *Singer* provides the teaching for which it is cited, the applicants submit that *Singer* does not provide the teaching that is missing from *Autry*, *Chiles*, and *Forsman* that is necessary to support a § 103 rejection of independent claim 14. On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claims 17-21.

Turning now to **dependent claims 26 and 31-37**, these claims depend from independent claim 24, which was discussed above. Therefore, the revisions and comments directed above to claim 24 apply equally to claims 26 and 31-37.

Regarding claim 31, without conceding that *Autry*, *Chiles*, and *Forsman* provide the teaching for which they are cited in the Action, the applicants agree with the assessment on Page 12 that *Autry*, *Chiles*, and *Forsman* “fail to teach or disclose the computer-readable medium wherein the at least one non-Central block comprises a header”. Therefore, the Action cited *Singer* to provide the teaching missing from *Autry*, *Chiles*, and *Forsman*. Without conceding that *Singer* provides the teaching for which it is cited, the applicants submit that *Singer* does not provide the teaching that is missing from *Autry*, *Chiles*, and *Forsman* that is necessary to support a § 103 rejection of independent claim 24. On at least this basis, the applicants request reconsideration and withdrawal of the § 103 rejection of dependent claims 26 and 31-37.

*Autry in view of *Alloing**

On Page 14 of the Action, claims 38 and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Alloing*. Without conceding the propriety of the stated rejections, and only to advance the prosecution of this matter, the applicants have canceled claims 38 and 41 without waiver, prejudice, or disclaimer of their rights to claim this subject matter in other applications.

*Autry in view of *Alloing* further in view of *Singer**

In the Action, claim 40 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry*, in view of *Alloing*, further in view of *Singer*. Without conceding the propriety of the stated rejections, and only to advance the prosecution of this matter, the applicants have canceled claim 40 without waiver, prejudice, or disclaimer of their rights to claim this subject matter in other applications.

*Claims 42-44*

The applicants had submitted claims 42-44 as new claims in the previous response. However, the pending Action did not appear to apply any art to these new claims. Thus, claims 42-44 remain unchanged in this response.



**Conclusion**

In view of the foregoing amendment and remarks, the applicants respectfully submit that all of the pending claims in the present application are in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact the applicants' undersigned attorney at the number below.

Respectfully submitted,

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//Rocco L. Adornato//

Date: September 30, 2008

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